

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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Baxley

April 15, 2024

Opposition No. 91282337

Murvin Persaud

v.

MD Audio Engineering, Inc.

By the Trademark Trial and Appeal Board:

The May 9, 2023 order is clarified to reflect that, because the Board has vacated its dismissal of this proceeding, Registration No. 6998611, which issued on March 14, 2023 from involved application Serial No. 88501889, must be cancelled, and the involved application must be restored to pendency.

On January 26, 2024, Applicant's attorney filed a request to withdraw as Applicant's counsel in this case. 26 TTABVUE. In a January 30, 2024 order, the Board granted that request and allowed Applicant until February 29, 2024 to file a submission in which it appointed a new attorney or stated that it chooses to represent itself. 27 TTABVUE.

After Applicant failed to respond to the January 30, 2024 order, the Board, on March 11, 2024, issued an order allowing Applicant until April 10, 2024 to show cause why judgment should not be entered against Applicant based on its apparent loss of

interest in this case.¹ 28 TTABVUE. On April 10, 2024, the last day in which Applicant could respond to the order to show cause, Opposer filed a motion for default judgment.² 29 TTABVUE. On April 11, 2024, Opposer filed a copy of an amended motion that is captioned for a civil action styled *Persaud v. MD Audio Engineering Inc.*, Case No. 6:23-CV-1277-CEM-LHP, filed in the United States District Court for the Middle District of Florida, which appears to be intended as an exhibit to the motion for default judgment. 30 TTABVUE.

The filing of the motion for default judgment on April 10, 2024 operated to suspend this proceeding prior to the expiration of time to respond to the order show cause. *See* Trademark Rule 2.127(d). Accordingly, the amended motion for default judgment is **denied as premature**.

In view of the following, the March 11, 2024 order to show cause is **vacated**. The proceeding file indicates that Applicant is or was involved in a bankruptcy proceeding, Case No. 21-11394-LMI, in the United States Bankruptcy Court for the Southern District of Florida. 22 TTABVUE 8-12; 30 TTABVUE 11. Accordingly, Applicant is allowed until **twenty days** from the date of this order to inform the

¹ The March 11, 2024 order is corrected to reflect that the January 30, 2024 order did not expressly allow Applicant until February 29, 2024 to “file an appearance informing the Board that the law firm of Marcelo Law Group is Applicant’s new counsel of record.” 28 TTABVUE 1. Rather, the January 30, 2024 order merely allowed Applicant until February 29, 2024 “to appoint new counsel, or to file a paper stating that Applicant chooses to represent itself.”

² In that motion, Opposer asks that his Registration No. 5763880 be reinstated. However, this proceeding is concerned only with the registrability of the mark in Applicant’s application Serial No. 88501889.

Registration No. 5763880 was cancelled on August 3, 2022 after judgment was entered against Opposer as defendant in Cancellation No. 92074565. Accordingly, any request to reinstate Registration No. 5763880 must be raised in Cancellation No. 92074565.

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Board of the status of that bankruptcy proceeding so that the Board can determine whether suspension of this proceeding under the automatic stay provisions of United States Bankruptcy Code Section 362, 11 U.S.C. § 362, pending final determination of that bankruptcy case. Proceedings herein otherwise remain **suspended**.

cc:

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